

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

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## 102.05 ALIENS

The purpose of this section is to provide information and instructions for determining alien status and level of Medicaid coverage. In general, eligibility and level of coverage is based on the alien's date of entry into the U. S., the date qualified alien status was obtained and/or the alien's immigration status.

### Qualified Aliens

Individuals living in the United States, who are not citizens, by birth or acquisition, and are not U. S. Nationals, are aliens. For Medicaid purposes, certain aliens are referred to as "qualified", meaning they are potentially eligible for full Medicaid services just like U. S. citizens. Each applicant declaring to be a qualified alien is responsible to provide, or cooperate in obtaining, documentation of alien status.

### Non-Qualified Aliens

"Non-qualified aliens" are non-citizens are potentially eligible only for Emergency Medicaid services; however, there may be exceptions. Non-citizens applying for Emergency Medicaid services are not required to disclose information regarding citizenship, alien status or enumeration and should not be requested to do so. All applicable program requirements must be met before an alien is eligible for either full Medicaid or Emergency Medicaid services.

### 102.05.01 GRANDFATHERED ALIENS

Effective 8/22/96, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limited alien eligibility for Medicaid and other federal programs. However, Mississippi elected to "grandfather in" aliens who were receiving and eligible for Medicaid on that date.

This means the grandfathered alien, who is lawfully residing in the U. S., has the right to have his eligibility continue under the alien policy in effect prior to 8/22/96. He also retains grandfathered rights if benefits are terminated and eligibility is later reestablished.

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### **VERIFICATION PROCEDURES FOR GRANDFATHERED ALIENS**

A "grandfathered alien" is an individual who is lawfully residing in the U. S. and was receiving and eligible for Medicaid on 8/22/96. When there is an indication an alien is potentially "grandfathered", the specialist must:

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#### VERIFICATION PROCEDURES FOR GRANDFATHERED ALIENS (Continued)

- (1) request immigration documents,
- (2) verify alien status through the Systematic Alien Verification for Entitlements system and
- (3) establish eligibility on 8/22/96 in MS or another state.

If the individual received Medicaid in Mississippi, check for eligibility on 8/22/96 in the Medicaid Management Information System (MMIS). If the individual received Medicaid in another state, verify eligibility on 8/22/96 with the other state. Documentation of a telephone contact with the other state is adequate verification.

If the returned SAVE form indicates the alien is lawfully residing in the U. S. and the eligibility check revealed the alien was eligible for and receiving Medicaid 8/22/96, the individual is eligible for full Medicaid, provided other program eligibility factors are met.

If the alien was receiving Medicaid on 8/22/1996, but was subsequently determined to be ineligible, his status as a qualified alien must be determined for full Medicaid coverage. If he is not a qualified alien, he may be eligible for Emergency Medicaid services.

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#### **102.05.02 CLASSIFICATIONS OF QUALIFIED ALIENS**

There are nine classifications of qualified aliens. Seven are based on INS alien status, one is based on battery or extreme cruelty and INS alien status, and one is based on severe forms of trafficking and certification by U. S. Health and Human Services. Refer to the Alien Status Chart in Section 102.05.15 for documents and eligibility status of the classifications listed below:

- (1) **AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE (LPR)** - Under the Immigration and Nationality Act (INA);
- (2) **A REFUGEE** - Admitted under Section 207 of the INA;
- (3) **AN ALIEN GRANTED ASYLUM** - Under Section 208 of the INA;
- (4) **A CUBAN AND HAITIAN ENTRANT** - As defined in section 501(e) of the Refugee Education Assistance Act of 1980;
- (5) **AN ALIEN GRANTED PAROLE FOR AT LEAST ONE YEAR** - Under Section 212(d)(5) of the INA;
- (6) **AN ALIEN WHOSE DEPORTATION IS BEING WITHHELD** - Under (1) Section 243(h) of the INA as in effect prior to April 1, 1997; or (2) Section 241(b)(3) of the INA, as amended;
- (7) **AN ALIEN GRANTED CONDITIONAL ENTRY** - Under Section 203(a)(7) of the INA in effect before April 1, 1980;
- (8) **A BATTERED ALIEN** - Meeting the conditions set forth in Section 431(c) of PRWORA, as added by Section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 PL 104-208(IIRIRA), and amended by Section 5571 of the Balanced Budget Act of 1997, PL 105-33(BBA) and Section 1508 of the Violence Against Women Act of 2000, PL106-386. Section 431(c) of PRWORA, as amended, is codified at 8 USC 1641(e);
- (9) **A VICTIM OF A SEVERE FORM OF TRAFFICKING** In accordance with Section 107(b)(1) of the Trafficking Victims Protection Act of 2000, PL 106- 86.

#### **Verification And Documentation Of Qualified Alien Status**

The Systematic Alien Verification for Entitlements (SAVE) process is used to verify

- (1) the authenticity of the alien's USCIS documents,
- (2) his date of admission to the U.S. and
- (3) current immigration status.

#### **Aliens Not Subject to SAVE Verification**

SAVE is used for documented aliens who are applying for benefits. **Victims of a severe form of trafficking** and **aliens applying for Emergency Medicaid services only** are not subject to the SAVE verification process.

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### PROCEDURES FOR VERIFYING ALIEN STATUS THROUGH SAVE

#### **Medicaid Specialist Responsibilities:**

- Request the alien's original immigration documents issued by the immigration agency. Currently, the United States Citizenship and Immigration Services (USCIS), within the Department of Homeland Security is responsible for immigration.
- Complete the SAVE cover sheet for each documented alien requesting benefits, providing the person's full name, Medicaid ID number, alien registration number, nationality, date of birth, Social Security Number, and county of residence.
- Attach front and back copies of original immigration documents and attach a copy of the alien's Social Security card.
- Submit the information to state office.

#### **State Office Responsibilities:**

When the information to be submitted for SAVE verification is received in state office, it is submitted electronically to the Department of Homeland Security.

When a response is received back, it is reviewed initially at the state level. The reviewer notes the following:

- Whether or not the alien is qualified, and
- If he is a qualified alien, whether the 5-year disqualification or 7-year eligibility time limit appears applicable.
- If either the 5- year ban or 7-year eligibility period appears applicable, the reviewer notes the beginning and ending dates and forwards the information to the regional office.

#### **Medicaid Specialist Responsibilities Continued:**

- When the SAVE verification sheet is received from state office and the alien is not in a qualified alien classification, he is eligible only for Emergency Services.
- When the SAVE verification sheet is received from state office and the alien is in a qualified status, review it and compare the SAVE information and case record information with the chart in Section 102.05.05 to determine alien eligibility and correct level of Medicaid eligibility.

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### PROCEDURES FOR VERIFYING ALIEN STATUS THROUGH SAVE (Continued)

- The state reviewer does not have access to all information in the case record; therefore, it is very important that the specialist considers information from all applicable sources and applies the correct policy to make an eligibility determination.

**Example:** The SAVE verification sheet from the Department of Homeland Security verifies an alien was Lawfully Admitted for Permanent Residence and is in the 3<sup>rd</sup> year of the 5-year ban. The state reviewer notes the following on the form “LPR, 5-year ban period May 1, 2005 – April 30, 2010.”

However, the case contains verification that the alien is the pregnant spouse of an honorably discharged veteran. The specialist determines the qualified alien is exempt from the 5-year disqualification and eligible for Medicaid as a pregnant woman in a full service COE.

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### Re-Verification of Alien Status Through SAVE

Once alien status has been verified, it is not necessary to re-verify unless the alien status is subject to change. Examples of when alien status is subject to change include, but are not limited to, the following:

- 1) An individual admitted under a temporary status may change to lawful permanent resident status.
- 2) An individual admitted under a temporary status that has expired may have updated his status.
- 3) A refugee may change his alien status to lawful permanent resident status.
- 4) An individual may meet requirements as a battered alien or some other type of qualified alien status.
- 5) An illegal alien may change to a legal status.

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#### **102.05.03 5-YEAR DISQUALIFICATION PERIOD**

Unless an exemption is met, qualified aliens admitted to the U. S. on or after August 22, 1996, are disqualified from receiving public benefits for:

- The first five years from the date they entered the country or
- The first five years from the day they obtained qualified alien status, **whichever is later.**

During this 5-year ban or disqualification period, these aliens are eligible only for emergency services if they meet all other eligibility requirements.

#### **Requirement for 40 Qualifying Quarters**

At the end of the 5-year disqualification period, the alien is potentially eligible for full Medicaid benefits only if he has 40 qualifying quarters (QQs) of earnings covered by Social Security or can be credited with 40 QQs which satisfy the requirement.

**NOTE:** If 40 QQs cannot be credited, the alien remains potentially eligible for Emergency Medicaid only.

Aliens who are subject to the mandatory 5-year disqualification period are not eligible for full Medicaid for the first 5 years, even if they can be credited with 40 qualifying quarters prior to or during the 5-year disqualification period. The disqualification period must be imposed before an assessment of eligibility based on the 40-quarter requirement.

#### **102.05.04 40 QUALIFYING QUARTERS OF EARNINGS**

A qualifying quarter means a quarter of coverage as defined under Title II of the Social Security Act, which is worked by the alien, and/or:

- All the qualifying quarters worked by the spouse of the alien during their marriage, provided the alien remains married to the spouse or the marriage ended by death and not divorce, and
- All of the qualifying quarters worked by a parent of an alien while the alien was under age 18. The alien does not have to be under 18 at the time of the application.

#### **Combining Quarters**

Subject to the limitations above, the alien's own QQs can possibly be combined with those of his parent(s) and/or spouse to attain the required 40 quarters.

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#### **Receipt of Means-Tested Benefits**

After December 31, 1996, any quarter in which any of these individuals, i.e., the alien, his parent(s) and/or spouse, received Federal means-tested benefits, such as TANF, SSI and Medicaid, cannot be credited to meet the 40 quarter requirement.

When total qualifying quarters have been verified, quarters in which Federal means-tested benefits were received by any person contributing quarters should be subtracted from the total to determine the number of countable qualifying quarters.

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#### **PROCEDURES TO VERIFY 40 QUALIFYING QUARTERS OF EARNINGS**

- Determine the individuals whose quarters can be included in the quarter coverage count based on the requirements and limitations discussed above in Section 102.05.03.
    - Question the applicant to determine that proper relationships exist, the date of birth of the applicants and request Social Security Numbers for each individual included.
  - Determine if it is possible for the applicant to meet the requirement.
    - Ask how many years the applicant and each individual included in the quarter coverage calculation have lived in the United States. If the total number of years is less than 10 years (40 quarters), the applicant cannot meet the requirement.
  - If the total number of years is at least 10, determine how many years included earnings.
    - Always determine the applicant's own quarters first. Many applicants may have sufficient quarters on their own record and it will not be necessary to request earnings history for other individuals. If the applicant does not have sufficient quarters, determine the quarters for the other individuals.
  - Request a quarter coverage history from Social Security unless it is clear from the interview that the applicant, or applicant in combination with others, cannot meet the 40-quarter requirement. However, if the applicant still believes he meets the 40 quarter requirement, request a quarter coverage history.
  - When verification is received from Social Security, total the quarters. Do not count any quarter(s) in which federal means-tested benefits were received by the individual as a qualifying quarter.
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#### **102.05.05 ALIEN CLASSIFICATIONS SUBJECT TO 5-YEAR BAN**

Non-exempt aliens in the following classifications, admitted to the U. S. on or after 8/22/96, are subject to the 5-year disqualification.

- Lawful Permanent Resident Aliens;
- Aliens Granted Parole for at Least One Year;
- Battered Aliens

**NOTE:** Aliens granted conditional entry under Section 203(a)(7) in effect before April 1, 1980, are not exempt from the 5-year disqualification per se; however, as a practical matter the disqualification will never apply since by definition, they entered the United States and obtain qualified alien status prior to 8/22/96.

During the disqualification period they are potentially eligible only for Emergency Medicaid services.

#### **102.05.06 ALIEN CLASSIFICATIONS EXEMPT FROM 5-YEAR BAN**

Refugees, asylees, Amerasian immigrants, Cuban/Haitian entrants, aliens who have been granted withholding of deportation, victims of trafficking and qualified aliens who are honorably discharged veterans or active duty military and certain of their family members are among the aliens exempt from the 5-year disqualification.

#### **Seven-Year Eligibility Limit**

However, aliens in some of the above classifications have a 7-year time limit imposed on eligibility. When the 7-year period ends, eligibility terminates the following month unless the alien's status has changed or he meets an exemption.

#### **Status Adjustments to LPR**

When the time-limited alien's status adjusts to LPR during the 7-year period, the alien can continue to be eligible for the remainder of his 7-year period.

However, to continue to be eligible beyond the 7-year period, the alien must be credited with 40 QQs or meet an exemption. If that is not the case, his eligibility ends the first month after the 7-year period ends.

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#### Alien Classifications Subject to Seven Year Limit on Eligibility

The 5-year disqualification does *not* apply to aliens in the following classifications, but these aliens are subject to the 7-year eligibility limit:

- **REFUGEES** - Qualify until 7 years after date of entry into the U. S.;
- **ASYLEES** - Qualify until 7 years after the grant of asylum;
- **CUBAN AND HAITIAN ENTRANTS** - Qualify until 7 years after grant of that status;
- **ALIENS WHOSE DEPORTATION IS BEING WITHHELD** - Qualify for the first 7 years after grant of deportation withholding;
- **ALIENS ADMITTED TO THE COUNTRY AS AMERASIAN IMMIGRANTS** - Qualify for 7 years from entry into the U. S.;
- **VICTIMS OF TRAFFICKING AND THEIR DERIVATIVE BENEFICIARIES** - Qualify during the first 7 years after obtaining the status

#### Qualified Aliens Not Subject to Eligibility Restrictions

The following groups of qualified aliens are exempt from both the 5-year disqualification and the 7-year eligibility time limit and if otherwise eligible, qualify for full Medicaid:

- Non-citizen members of a Federally-recognized Indian tribe, as defined in 25 U.S.C 450(b)(e); and American Indians born in Canada to whom Section 289 of the INA applies;
- Any qualified alien who is also
  - (1) An honorably discharged veteran or
  - (2) On active duty in the U. S. military or
  - (3) The spouse (including a surviving spouse who has not remarried) or
  - (4) An unmarried dependent child of an honorably discharged veteran or individual on active duty in the military;
- Grandfathered aliens, i.e., those eligible for and receiving Medicaid on 8/22/96;
- Aliens who entered the U. S. and obtained qualified status prior to 8/22/96;
- Aliens who entered the U. S. prior to 8/22/96 , but obtained qualified status on or after that date, and remained “continuously present” in the U. S. from their last entry date into the country prior to 8/22/96 until becoming a qualified alien. Refer to Section 102.05.07 below for the definition of “continuously present”.

**NOTE:** Aliens filing an application for Emergency Medicaid services only are not subject to either the 5-year disqualification or 7-year time limit.

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#### **102.05.07 CONTINUOUSLY PRESENT IN THE U. S**

As previously indicated, a qualified alien who entered the U. S. prior to 8/22/96 and obtained qualified status on or after that date, must have remained “continuously present” in the U. S. from their last entry date into the country prior to 8/22/96 until becoming a qualified alien. “Continuously present” in the U. S. is defined as

- The alien had no single absence from the U.S. of more than 30 days and
- The alien had no total of aggregate absences of more than 90 days.

The qualified alien who meets the above definition is deemed to have entered the U. S. prior to 8/22/96 and if otherwise eligible, qualifies for full Medicaid.

#### **Not Continuously Present**

Aliens who were not “continuously present” are considered to have entered the U. S. on or after 8/22/96 and unless an exemption is met, are subject to the 5-year disqualification period from the date qualified status was obtained and the 40 QQ requirement.

#### **102.05.08 VICTIMS OF SEVERE FORMS OF TRAFFICKING**

Trafficking victims are not included in the statutory definition of qualified alien. Under Section 107(b) (1) (A) of the Trafficking Victims Protection Act, however, they are eligible for means-tested benefits to the same extent as refugees, i.e., victims of trafficking and their derivative beneficiaries qualify for Medicaid during the first 7 years after obtaining this qualified status.

#### **Certification by Office of Refugee Resettlement**

The qualified status of a trafficking victim is not based on immigration status. The Office of Refugee Resettlement (ORR) issues a certification letter for an adult who has been subjected to a severe form of trafficking and meets statutory certification requirements. The ORR also issues a similar eligibility letter for children.

Other agencies may issue letters or documents to victims of severe forms of trafficking; however, the ORR letter is the acceptable verification. Victims of trafficking are not required to provide immigration documents. SAVE verification is not required.

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#### 102.05.09 BATTERED ALIENS

Battered aliens were not initially included in PRWORA’s definition of qualified aliens. In passing Section 501 IIRIRA, Congress added a new Section 4319(c), which provides that the term “qualified alien” shall include such immigrants.

- The alien must be either
  - The person battered,
  - The parent of a child who is battered or
  - A child whose parent has been battered.
- The battered alien must not be residing in the same household with the person responsible for the battery or extreme cruelty.
  - If the battered alien resumes living with the one who is responsible for the battery or extreme cruelty, the battered alien’s eligibility will end the month after the month of reconciliation.
- The alien must be the beneficiary of a petition for
  - Immediate relative status;
  - Classification to immigrant status based on relationship to a lawful permanent resident alien; or
  - Suspension of deportation and adjustment to lawful permanent resident status.
- The alien must also be able to show a substantial connection between the battery or extreme cruelty and the alien’s need for Medicaid.
  - This may include such reasons as Medicaid is needed to obtain medical attention or mental health counseling caused by abuse, to replace medical coverage and/or health services lost when the individual separated from the abuser, to enable the individual to become self-sufficient following separation from the abuser or to provide medical care during a pregnancy resulting from the abuser’s sexual assault or abuse of, or relationship with, the individual.

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#### **102.05.10 VETERAN OR ACTIVE DUTY MILITARY**

To be eligible as a veteran, the qualified alien must have been honorably discharged, not based on alienage, and must have fulfilled minimum active duty service requirements. A qualified alien who is an active duty member of the Armed Forces, but not on active duty for training purposes only, can also be eligible.

A qualified alien who is the spouse of a veteran or active duty service member may be eligible. The veteran's exemption also includes the unmarried surviving spouse of a veteran or active duty military person.

To qualify as a surviving spouse, at least one of the following conditions must be met:

- The spouse must have been married to the veteran for at least one year; or
- The spouse must have had a child with the veteran, or
- The veteran's death must have been due to an injury or illness incurred during military service and the marriage must have been in existence sometime within 15 years after the period of service in which the injury or disease was incurred or aggravated.

#### **Loss of Exemption**

Surviving spouses who remarry lose the benefit of this exemption the month after the month of the remarriage. Spouses whose marriage ended in divorce lose the benefit of this exemption the month after the month of divorce.

#### **Qualifying Children**

To qualify as a child of a veteran or active duty service person, the biological, adopted or stepchild must be

- Unmarried and claimable as a dependent on the military person's tax return and Under 18 years of age or under 22 and a student regularly attending school; or
- A child with disabilities who is over 18, if the child had a disability and was dependent on the veteran or active duty service member before the child's 18<sup>th</sup> birthday; or
- A surviving unmarried minor child of a veterans or person killed in active duty and dependent on the veteran at the time of the veteran's death.

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#### **102.05.11 NON-QUALIFIED ALIENS**

An alien who does not meet the specific requirements of a qualified alien is a non-qualified alien for Medicaid purposes. A non-qualified alien who meets MS residency requirements and other applicable eligibility factors can receive Medicaid Emergency Services only. An applicant for Emergency Medicaid services is not required to provide information regarding citizenship, immigration or enumeration and should not be requested to do so. The SAVE process is not used for a non-qualified alien.

#### **Illegal Aliens**

Illegal aliens are non-qualified aliens. This group of individuals includes:

- Undocumented aliens who entered illegally without knowledge of USCIS; or
- Aliens who were admitted for a limited period of time and did not leave the U. S. when the period of time expired.

These individuals, if they meet all eligibility criteria except citizenship/alien status, are entitled to Medicaid only for treatment of an emergency medical condition. The specialist must accept the applicant's statement if they say they have no documentation and assess the alien for emergency services only.

Undocumented and illegal aliens do not have to provide a Social Security Number or provide information regarding citizenship or immigration status. The alien status of an illegal alien is not verified through the SAVE process.

#### **Ineligible Aliens**

Ineligible aliens may be lawfully admitted to the U. S., but only for a temporary or specified period of time. These aliens are never qualified aliens, Because of the temporary nature of their admission status, most ineligible aliens are not entitled to any Medicaid benefits, including emergency services.

However, in some instances, an alien in a currently valid non-immigration status may meet state residency requirements, such as intent to reside in MS for purposes of employment. If state residency requirements are met, the alien is potentially eligible for Emergency Medicaid services only.

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Examples of Ineligible Aliens Who are Lawfully Admitted	
Foreign Students Visitors Tourists Foreign government representatives on official business and their families and servants Crewmen on shore leave International organization representatives and their families and servants Temporary workers (individuals allowed entry temporarily for employment purposes) Members of the foreign press, radio, film, etc., and their families Short-term parolees	Visa, Passports or Form I-766 OR Form I-94, Arrival/Departure Record annotated with A to M OR Form I-688, Temporary Resident Card annotated with Section 210 or 245A OR Form I-688 A and B, Employment Authorization Card OR Form I-185, Canadian Border Crossing Card OR Form I-186, Mexican Border Crossing Card OR Form SW 434, Mexican Border Visitor's Permit OR Form I-95-A, Crewman's Landing Permit <b>Note: Form I-94, Arrival-Departure Record, is also issued for refugees and other related statuses.</b>

### Other Aliens

Aliens who are admitted legally to the U. S., but do not fall into one of the specific categories of qualified aliens are non-qualified aliens. These individuals may include Legal Temporary Residents (LTR's), as well as individuals who are given temporary administrative statuses, i.e., a stay of deportation or voluntary departure until they can formalize permanent status or individuals who are paroled for less than one year or aliens under deportation procedures.

### Immigration Reporting

Applicants who are found to be in the U. S. illegally through the application process are not subject to immigration reporting requirements. Persons who apply for benefits on behalf of others, i.e., a mother applying for her children, are not subject to immigration reporting requirements. Declining to provide documentation of immigration status is not a valid reason to report an alien to immigration.

The alien applicant who declines to present documentation of qualified alien status or a Social Security Number will only be able to receive Emergency Medicaid, if otherwise eligible. In this instance, there is no reason to seek further verification of alien status beyond interviewing the applicant. All rules of confidentiality must be applied in regard to an individual's alien status.

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#### **102.05.12 Criteria for Approval of Emergency Services**

Aliens who are not entitled to full Medicaid benefits (refer to Section 102.05.04) may be eligible for emergency services only, if the following conditions exist:

- All other eligibility requirements are met except satisfactory immigration status;
- Care and services needed are not related to an organ transplant procedure or routine prenatal or postpartum care;
- The alien has, after sudden onset, a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:
  - Placing the patient's health in serious jeopardy,
  - Serious impairment to bodily functions,
  - Serious dysfunction of any bodily organ or part, or
  - Is for labor and delivery

**NOTE:** The services provided in this situation must relate to the injury, illness, or delivery causing the emergency. Services that are not directly related to the injury, illness, or delivery are not compensated by Medicaid. Once the medical condition is stabilized, even if it remains serious or results in death, it is no longer an emergency.

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#### **Procedures for Processing Eligibility for Emergency Medicaid Services**

At the point of application, the Medicaid eligibility worker must explain to the applicant, who is a non-qualified alien or a qualified alien subject to 5-year disqualification, that if all applicable program eligibility requirements are met, Medicaid may reimburse for emergency services only (including labor and delivery) after the services have been received.

#### **Determining Eligibility for Emergency Medicaid Services**

When determining eligibility for Medicaid coverage for treatment of an emergency medical condition only, the specialist will obtain information to

- (1) Establish eligibility based on emergency services criteria, such as a copy of the hospital bill or other documentation from the hospital indicating treatment or services received, dates of service and the diagnosis for the individual's condition and

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#### **Procedures for Processing Eligibility for Emergency Medicaid Services (Continued)**

- (2) Establish eligibility on technical factors, except citizenship, alien status and enumeration, and financial factors.

#### **Not Financially Eligible**

If the alien is not financially eligible, the application will be denied by the specialist.

#### **Applicant Appears Eligible for Emergency Medicaid Services**

If the specialist determines the individual appears eligible for emergency services, the case will be referred to state office for a final review and decision. Pertinent material from the case record, including a copy of the application, a budget and medical documentation, will be sent to state office.

#### **State Office Responsibilities**

The state office worker will make the final determination of whether the individual is categorically eligible and whether the service is an emergency. If Emergency Medicaid services are approved, the state office worker is responsible for notification and input of eligibility data.

#### **102.05.13 BUDGETING FOR CITIZEN CHILDREN OF NON-QUALIFIED ALIEN(S)**

Children born in the United States to parent(s), who is a non-qualified alien as discussed in Section 102.05.04, may be eligible for full Medicaid. To determine eligibility, count the needs and income, less disregards, of the parent(s) as well as any siblings the parent wants to include in the application. The parent(s) and any sibling(s) who are non-qualified aliens cannot be eligible for full Medicaid benefits; however, they may be assessed for Emergency Medicaid Services. A child born to a mother eligible for emergency services for labor and delivery is deemed eligible for Medicaid through the month of the child's first birthday, provided the child remains a member of the mother's household and a resident of the state.

When the child reaches the age of one, a review is required. Verifications postponed during the deemed eligible child's first year must be provided. To determine eligibility after the deemed period, count the needs and income, less disregards, of the parent(s) as well as any siblings the parent wants to include in the application. The parent(s) and any sibling(s) who are non-qualified aliens cannot be eligible for full Medicaid benefits; however, they may be assessed for Emergency Medicaid Services.

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#### 102.05.14 PUBLIC CHARGE

Aliens who seek admission to the U.S. must establish that they will not become ‘public charges.’ A “public charge” is an alien who has become (for deportation purposes), or who is likely to become (for admission/adjustment purposes), **solely** dependent on government assistance as demonstrated by either (1) Receipt of public cash assistance for income maintenance (including Work First or SSI), or (2) Institutionalization for long-term care at government expense. Institutionalization for short periods of rehabilitation does not constitute primary dependence.

Many aliens establish that they will not become public charges by having ‘sponsors’ who pledge to support them. Aliens may ask staff about the consequences of becoming a public charge by applying for assistance. This is of concern to aliens who want to become Legal Permanent Residents and obtain a Green Card. It should be noted that refugees and persons granted asylum may receive any benefit, including Work First, without affecting their chances of becoming a Legal Permanent Resident (LPR) or a U.S. citizen. Long term institutionalized care under Medicaid may result in a public charge determination; however, this does not include short-term rehabilitation stays in long-term care facilities.

However, being institutionalized for long-term care does not automatically make an individual inadmissible to the U.S., ineligible for legal permanent resident status, or deportable on public charge grounds. The law requires that USCIS officials consider several additional issues. Each determination is made on a case-by-case basis and the regional office is not involved in this determination. Specialists will determine eligibility for these persons person following all requirements in Medicaid.

NOTE: “Income Maintenance” does **not** include one-time cash payments for emergency assistance or Benefit Diversion. The receipt of public cash assistance for income maintenance for a child does **not** create a public charge problem for the parent **unless** that cash assistance is the only source of income for the family.

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### 102.05.15 ALIEN STATUS CHART

The following chart identifies the following: each alien group, whether the group can receive the full range of Medicaid benefits or just emergency services, and acceptable documentation used to establish alien status. The Systematic Alien Verification for Entitlement (SAVE) program procedures must be used to validate alien documentation presented by each individual in these groups. SAVE procedures are also used to verify the date of entry to the US for lawful permanent residents, parolees and conditional residents to determine if an individual in one of these qualified alien groups is entitled to full benefits or emergency services only.

<u>OVERVIEW OF ALIEN ELIGIBILITY FOR MEDICAID</u>		
VERIFICATION DOCUMENTATION	<i>ALIEN STATUS</i>	ELIGIBILITY STATUS
<ul style="list-style-type: none"> <li>• <b>I-551</b> (Alien Registration Receipt Card) commonly referred to as the “green card”</li> <li>• <b>Foreign passport</b> stamped with an un-expired temporary I-551 stamp</li> <li>• <b>I-94</b> annotated stamped with a temporary I-551 stamp (for recent arrivals or aliens who have applied for a replacement I-551)</li> </ul>	<p><b><u>LAWFULLY ADMITTED FOR PERMANENT RESIDENCE (LPR)</u></b></p>	<p>Eligible for full Medicaid benefits if “grandfathered in” or entered the U.S. before August 22, 1996, and obtained qualified status prior to that date or obtained qualified status after 8/22/96 and was continuously present in the U. S. from 8/22/96 until qualified alien status obtained.</p> <p>If entered the U. S. on or after August 22, 1996, disqualified for full Medicaid benefits for 5 years from the date entered the country or obtained qualified status, whichever is later.</p> <p>Eligible for emergency services only during the 5-year disqualification period.</p> <p>Eligible for full Medicaid benefits after the 5-year disqualification period only if they have 40 QQs.</p>
<ul style="list-style-type: none"> <li>• <b>I-94</b> stamped showing admission under section 207 of the INA and date of entry to the United States</li> <li>• <b>I-688B</b> (Employment Authorization Card) annotated 274a.12(a)(3)</li> <li>• <b>I-766</b> (Employment Authorization Document) annotated “A3”</li> <li>• <b>I-571</b> (Refugee Travel Document)</li> </ul>	<p><b>REFUGEE</b></p>	<p>Can qualify for full Medicaid until 7 years after date of entry even if adjusts to LPR status during the 7-year period.</p> <p>After 7 years, must have adjusted to LPR with 40 QQs or be exempt from this requirement to establish continued eligibility.</p>

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<p><b>REFUGEE (Continued)</b></p> <p>Refugees become eligible to apply for adjustment to LPR status after 12 months in the U. S., but it takes another 6 – 12 months to be approved. They are still considered refugees for eligibility purposes when they have an I-551 with a code of RE-6, RE-7, RE-8 or RE-9)</p>		<p>5-Year disqualification period does not apply.</p> <p>If they do not meet categorical requirements, then they are eligible for full benefits for 8 months beginning with date of entry through the Refugee Assistance Program.</p>
<ul style="list-style-type: none"> <li>• <b>I-94</b> stamped showing grant of asylum under section 208 of the INA and date of entry</li> <li>• <b>A grant letter</b> from the Asylum Office of the USCIS</li> <li>• <b>I-688B</b> (Employment Authorization Card) annotated “274a.12(a)(5)”</li> <li>• <b>I-766</b> (Employment Authorization Document) annotated “A5”</li> <li>• <b>Court order</b> of an immigration judge showing asylum granted under section 208 of the INA</li> </ul>	<b>ASYLEE</b>	<p>Can qualify for full Medicaid until 7 years after the grant of asylum even if adjusts to LPR status during the 7 year period.</p> <p>After 7 years, must have adjusted to LPR with 40 QQs or be exempt from this requirement to establish continued eligibility.</p> <p>5-Year disqualification period does not apply.</p> <p>If they do not meet categorical requirements, then they are eligible for full benefits for 8 months beginning with date of entry through the Refugee Assistance Program.</p>
<ul style="list-style-type: none"> <li>• <b>Order</b> of an immigration judge showing deportation withheld under section 243(h) of INA as in effect prior to April 1, 1997, or removal withheld under Sec. 241(b)(3) of the INA and date of grant</li> <li>• <b>I-688B</b> (Employment Authorization Card) annotated 274a.12(a)910)</li> <li>• <b>I-766</b> (Employment Authorization Document) annotated “A10”</li> </ul>	<b>DEPORTATION WITHHELD</b>	<p>Can qualify for full Medicaid until 7 years after the grant of withholding even if adjusts to LPR during the 7-year period.</p> <p>After 7 years, must have adjusted to LPR with 40 QQs or be exempt to establish continued eligibility.</p> <p>The 5-Year disqualification period does not apply.</p>
<ul style="list-style-type: none"> <li>• <b>I-94</b> annotated with stamp showing grant of parole under 212(d)(5) and a date showing granting of parole for at least one year. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement)</li> </ul>	<b>PAROLEE</b>	<p>Eligible for full Medicaid benefits if “grandfathered in” or entered the U.S. before August 22, 1996, and obtained qualified status prior to that date or</p>

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		<p><b>PAROLEE (Continued)</b></p> <p>Obtained qualified status after 8/22/96 and was continuously present in the U. S. from 8/22/96 until qualified alien status obtained.</p> <p>If entered the U. S. on or after August 22, 1996, disqualified for full Medicaid benefits for 5 years from the date entered the country or obtained qualified status, whichever is later.</p> <p>Eligible for emergency services only during the 5-year disqualification period.</p> <p>Eligible for full Medicaid benefits after the 5-year disqualification period only if they have 40 QQs.</p>
<ul style="list-style-type: none"> <li>● <b>I-94</b> with stamp showing admission under 203(a)(7) of the INA, refugee-conditional entry</li> <li>● <b>I-688B</b> (Employment Authorization Card) annotated 274a.12(a)(3)</li> <li>● <b>I-766</b> (Employment Authorization Document) annotated "A3"</li> </ul>	<b><u>CONDITIONAL ENTRANT</u></b>	<p>Eligible for full Medicaid benefits if "grandfathered in" or entered the U.S. before August 22, 1996, and obtained qualified status prior to that date or obtained qualified status after 8/22/96 and was continuously present in the U. S. from 8/22/96 until qualified alien status obtained.</p> <p>If entered the U. S. on or after August 22, 1996, disqualified for full Medicaid benefits for 5 years from the date entered the country or obtained qualified status, whichever is later.</p> <p>Eligible for emergency services only during the 5-year disqualification period. Eligible for full Medicaid benefits after the 5-year disqualification period only if they have 40 QQs.</p>

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<ul style="list-style-type: none"> <li>● <b>I-551</b> (Alien Registration Receipt Card) with the code CU6, CU7, or CH6</li> <li>● <b>Foreign passport</b> stamped with an unexpired temporary I-551 stamp with the code CU6 or CU7</li> <li>● <b>I-94</b> stamped with an unexpired temporary I-551 stamp with the code CU6 or CU7</li> <li>● <b>I-94</b> with stamp showing parole as “Cuban/Haitian Entrant” under Section 212(d)(5) or the INA.</li> </ul>	<b><u>CUBAN/HAITIAN ENTRANT</u></b>	<p>Can qualify for full Medicaid until 7 years after the grant of this status.</p> <p>After 7 years, must have adjusted to LPR with 40 QQs or be exempt from this requirement to establish continued eligibility.</p> <p>5-Year disqualification period does not apply.</p> <p>If they do not meet categorical requirements, then they are eligible for full benefits for 8 months beginning with date of entry through the Refugee Assistance Program.</p>
<ul style="list-style-type: none"> <li>● <b>I-551</b> with code AM6, AM7, or AM8</li> <li>● <b>Foreign passport</b> stamped with an unexpired temporary I-551 stamp with the code AM1, AM2, or AM3</li> <li>● <b>I-94</b> stamped with an unexpired temporary I-551 stamp with the code AM1, AM2, or AM3</li> </ul>	<b><u>AMERASIAN IMMIGRANTS</u></b>	<p>Can qualify for full Medicaid until 7 years after the entry to the United States.</p> <p>After 7 years, must have adjusted to LPR with 40 QQs or be exempt to establish eligibility.</p> <p>5-Year disqualification period does not apply.</p> <p>If they do not meet categorical requirements, then they are eligible for full benefits for 8 months beginning with date of entry through the Refugee Assistance Program.</p>
Office of Refugee Resettlement(ORR) certification letter	<b><u>VICTIM OF A SEVERE FORM OF TRAFFICKING</u></b>	<p>Eligible for benefits to the same extent as a refugee. Eligible for any Medicaid category if meets all other eligibility criteria.</p> <p>Victims of Trafficking and their derivative beneficiaries qualify during the first 7 years after status is obtained.</p> <p>5-Year disqualification period does not apply.</p>

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<p>I-797 indicating filing under one of the provisions listed below and approval of the petition or a finding that a prima facie case has been established.</p> <ul style="list-style-type: none"> <li>● <b>Case Type: I-130</b> petition approved</li> <li>● <b>Case Type: I-360</b> petition approved</li> <li>● <b>I-551</b> (Resident Alien Card or Alien Registration with one of the following class of admission (COA) codes stamped on lower left side of the back of a pink card demonstrates approval of a petition under C.3.j.(1)3. Above: IB1-IB3, IB6-IB8, B11, B12, B16, B17, B20-B29, B31-B33, B36-B38, BX1-BX3, or BX6-BX8</li> <li>● <b>Order</b> from an immigration judge (EOIR) or the Board of Immigration Appeals granting suspension of deportation or cancellation of removal under VAWA (EOIR) Form 42B or an order from an immigration judge (EOIR) or Board of Immigration</li> </ul> <p>For battered aliens, the codes, types and stamps in foreign passports or on the I-94 that demonstrate an approved petition, or application under one of the provisions are too numerous to describe here. If an alien claiming pending or approved status presents a code different than those listed, or if you cannot determine the class of admission from the I-551 stamp, send a copy of the document(s) presented to USCIS with completed SAVE cover sheet to state office for submission of a G845-S.</p>	<p><b><u>BATTERED ALIEN</u></b></p> <p>Includes battered alien's child and parent of a battered alien child</p>	<p>Eligible for full Medicaid benefits if "grandfathered in" or entered the U.S. before August 22, 1996, and obtained qualified status prior to that date or obtained qualified status after 8/22/96 and was continuously present in the U. S. from 8/22/96 until qualified alien status obtained.</p> <p>If entered the U. S. on or after August 22, 1996, disqualified for full Medicaid benefits for 5 years from the date entered the country or obtained qualified status, whichever is later.</p> <p>Eligible for emergency services only during the 5-year disqualification period.</p> <p>Eligible for full Medicaid benefits after the 5-year disqualification period only if they have 40 QQs.</p>
<ul style="list-style-type: none"> <li>● <b>Green Form DD-2</b> marked "ACTIVE" OR</li> <li>● <b>Current orders</b> showing the individual is on full-time duty in the US Army, Navy, Air Force, Marine Corps, or Coast Guard (Reserves are not considered active duty.)</li> </ul>	<p><b><u>ACTIVE DUTY MILITARY</u></b></p> <p>Includes spouse and unmarried dependent children under 18 or under 22 and a student</p>	<p>Eligible for any Medicaid category if meet all other eligibility criteria.</p> <p>5-Year disqualification period does not apply.</p>
<ul style="list-style-type: none"> <li>● <b>DD-214</b> indicating honorable discharge, OR</li> </ul> <p><b>Discharge papers</b> indicating honorable discharge</p>	<p><b><u>VETERAN</u></b></p> <p>Includes spouse and unmarried dependent children under 18 or under 22 and a student</p>	<p>Eligible for any Medicaid category if meet all other eligibility criteria.</p> <p>5-Year disqualification period does not apply.</p>

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<ul style="list-style-type: none"> <li>● <b>I-551</b> (Alien Registration Receipt Card) with code S13</li> <li>● Canadian passport stamped with an unexpired temporary I-551 stamp with the code S13</li> <li>● <b>I-94</b> stamped with unexpired temporary I-551 stamp with code S13</li> <li>● A letter or other tribal document certifying at least 50% American Indian blood, as required by section 289 of INA combined with a birth certificate or other satisfactory evidence of birth in Canada</li> </ul>	<p><b>AMERICAN INDIAN BORN IN CANADA</b></p>	<p>Eligible for any Medicaid category if meet all other eligibility criteria.</p> <p>5-Year disqualification does not apply for Medicaid.</p>
<ul style="list-style-type: none"> <li>● Membership card or other tribal document demonstrating membership in a federally-recognized Indian tribe under section 4(e) of the Indian Self-Determination and Education Assistance Act</li> </ul>	<p><b>AMERICAN INDIAN</b></p>	<p>5-Year disqualification does not apply for Medicaid.</p> <p>Eligible for any Medicaid category if meet all other eligibility criteria.</p> <p>This does not include a spouse of child of the individual. It also does not include a noncitizen whose membership in an Indian tribe or family is created by adoption, unless he is of at least 50% or more American Indian blood.</p>